IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

(Attorney Docket No. 14177US02)

In the Application of:

Ed H. Frank

Serial No. 10/658,310

Filed: September 9, 2003

For: METHOD AND SYSTEM FOR PROVIDING MULTIPLE ENCRYPTION IN A MULTI-BAND MULTI-PROTOCOL HYBRID WIRED/WIRELESS NETWORK

Examiner: Carlton Johnson

Group Art Unit: 2436

Confirmation No. 2145

Electronically Filed on September 22, 2010

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Applicant requests review of the final rejection in the above-identified application, stated in the final Office Action mailed on July 28, 2010 ("Final Office Action") with a three-month period of reply through October 28, 2010. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is being requested for the reasons stated on the attached sheets.

REMARKS/ARGUMENTS

Claims 1, 6-9, 15, 20-23, 29 and 34-37 are rejected under 35 U.S.C. § 102(e) as being anticipated by USP 7,039,027 ("Bridgelall"). Claims 2-5, 10-11, 16-19, 24-25, 30-33 and 38-39 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bridgelall in view of USP 6,088,451 ("He"). Claims 12-14, 26-28 and 40-42 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bridgelall in view of USP

7,325,058 ("Sheth"). Without conceding that Bridgelall qualifies as a prior art under 35 U.S.C. § 102, the Applicant respectfully traverses these rejections at least for the reasons previously set forth during prosecution and at least based on the following remarks.

I. Examiner's Response to Arguments in the Final Office Action

With regard to the rejection of independent claim 1 under 35 U.S.C. § 102(e), the Applicant maintains that Bridgelall does not disclose or suggest "receiving on a first PHY channel of an access point, a request for initiation of a communication session from an originating access device," or "authenticating said communication session by authenticating said originating access device using a second PHY channel," or "hosting said communication session over a third PHY channel, said third PHY channel established between said access point and said originating access device," as recited by the Applicant in independent claim 1.

The Examiner relies for support on Bridgelall's Fig. 2, and equates Bridgelall's WWAN 200 (i.e., GSM cellular communication between the radio device 242 and the antenna 226), the WLAN 201 (i.e., between the radio device 242 and the AP 202) and the Bluetooth network (i.e., between the radio device 242 and the Bluetooth headset 244) to Applicant's multi-band multi-protocol hybrid wired/wireless network. The Examiner also equates Bridgelall's radio device 242 to Applicant's "originating access devices", and Bridgelall's access point 202 to Applicant's "access point".

The Examiner (see Final Office Action in pages 2-4) equates Bridgelall's RACH channel 336 to Applicant's "first PHY channel of an access point", Bridgelall's SDCCH channel 338 to Applicant's "second PHY channel of an access point", and Bridgelall's FACCH/TCH channel 342 to Applicant's "third PHY channel of an access point". The Applicant respectfully disagrees, and points out that the Examiner's arguments are still deficient at least for the following reasons:

(1) Applicant's claim 1 recites that the "first PHY channel", the "second PHY channel" and the "third PHY channel", all refer to the respective PHY channels on the access point, and not on the originating access (mobile) device. Bridgelall discloses just the opposite, that all the alleged "first, second and third PHY channels" are on the originating access (mobile) device. The Examiner in the Final Office Action (*see* page 4, argument 3.4) argued that all channels have two endpoints, the mobile (access) device being one endpoint, and the access point (which facilitates communications to other nodes) being the other end point. The Examiner also argued that both Applicant's disclosure and claim 1 only specify that that the access point communicates in the first endpoint (i.e., the "first, PHY channel"), but not the other two endpoints (i.e., the "second and third PHY channels").

The Applicant respectfully disagrees, and points out that Applicant's claim 1 recites "receiving on a first PHY channel of an access point, a request for initiating

communication session from an originating access device, authenticating said communication session by authenticating said originating access device using a second PHY channel, and hosting said communication session over a third PHY channel, said third PHY channel established between said access point and said originating access device". In addition, Applicant's specification (*see* paragraph [81]) discloses that the authenticator's functions may be integrated within a switch or an access point. In other words, Applicant's access point may carry out the authenticating function using a second PHY channel of the access point. In addition, Applicant's specification (*see* paragraph [81]) also discloses that the receiver (616) on the access point may establish one or more virtual channels (i.e., hosting communication) between the originating and terminating access (mobile) device over a portion of the virtual channel in one of the first, second and third PHY channels. In other words, the third PHY channel used for hosting the communication between the access point and the originating access device (with the terminating access device) is also of the access point. Therefore, the Applicant maintains that both Applicant's specification (*see* paragraph [81]) and claim 1 support Applicant's argument that all three PHY channels are of the access point, and not of the originating access (mobile) device, as disclosed by Bridgelall. In this regard, Bridgelall does not disclose Applicant's "first, second and third PHY channels", and claim 1 is submitted to be allowable.

(2) Even assuming arguendo, that Applicant's claim 1 does not recite that all of the "first, second and third PHY channels" are of the access device (which Applicant maintains that they are), the Examiner's argument is still deficient. For example, the Examiner alleges that Bridgelall (see col. 6, lines 7-9, and col. 7, lines 33-36) discloses "**receiving on a first PHY channel of an access point, a request** for initiating communication session **from an originating access device**," as recited in Applicant's claim 1.

The Applicant respectfully disagrees. Bridgelall (see col 6, lines 7-12) discloses that the radio device 242 (the alleged "originating access device") may conduct a communication (i.e., the alleged "establishing a communication session") via anyone of the three possible network paths, namely, the WLAN 201 with the WWAN 200 via the AP 202, the WWAN 200 via the cellular antenna 226 or via the Bluetooth network. Bridgelall's Figs. 3-4 (also *see* col. 7, lines 33-36) then disclose that the radio device 242 (the alleged "originating access device") establishes a call a request (the alleged "initiating a communication session") **with the GSM cellular network** (i.e., not via the WLAN) **via the cellular RACH channel 336** (the alleged "first PHY channel"). **In other words, Bridgelall's radio device 242 (the alleged "originating access device") establishes a call request (the alleged "initiating a communication session") directly via the cellular antenna 226, without going through the WLAN 201 via the AP 202**. In this regard, Bridgelall does not disclose or suggest "receiving on a first PHY channel of an access point, a request for initiation of a communication session from an originating access device," as recited in Applicant's claim 1.

(3) Furthermore, even assuming arguendo that Bridgelall's call request (the alleged "initiating a communication session") is established through the WLAN 201 via the AP 202 instead of via the antenna 226 (which Bridgelall does not), the Examiner's argument is still deficient. For example, Bridgelall's Fig. 4 clearly discloses that **the different cellular channels**, namely, **the RACH channel** 336 (the alleged "first PHY channel") for establishing the call communication session (the alleged "initiating a communication session"), **the SDCCH channel** 338 (the alleged "second PHY channel") for authentication (the alleged "authenticating said originating access device") **and the FACCH/TCH channel** 342 (the alleged "third PHY channel") for connecting the call (the alleged "hosting said communication session"), **are channels utilized by the radio device** 242 (the alleged "originating access device"). **In other words, the alleged first, second and third PHY channels all refer to the PHY channels of the radio device 242 (the alleged "originating access device"), but not the PHY channels of the AP 202 (the alleged "AP").**

In this regard, Bridgelall also does not disclose or suggest "**receiving on a first PHY channel of an access point**, a request for initiation of a communication session from an originating access device," or "**authenticating** said communication session by authenticating said originating access device **using a second PHY channel**," or "**hosting said communication session over a third PHY channel**, said third PHY channel **established between said access point and said originating access device**," as recited by the Applicant in independent claim 1.

Based on the foregoing rationale, the Applicant maintains that Brideglall does not anticipate Applicant's claim 1. Claim 1 is submitted to be allowable. Independent claims 15 and 29 are also allowable for the reasons stated above with regard to claim 1. The Applicant also maintains the arguments to the dependent claims in the 5/18/2010 response. He and Sheth do not overcome the above deficiencies of Bridgelall. In addition, claims 2-14, 16-28 and 30-42 depend directly or indirectly from the independent claims 1, 15 and 29, and are, also respectfully submitted to be allowable.

CONCLUSION

Based on at least the foregoing, the Applicant believes that all claims 1-42 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Patent Agent at (312) 775-8093.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

Date: September 22, 2010

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